

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
STEPHEN G. DANIELS,)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 644

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being an appeal of a \$250.00 civil penalty for an alleged unlawful outdoor fire; having come on regularly for hearing before the Pollution Control Hearings Board on the 6th day of December, 1974, at Everett, Washington; and appellant, Stephen G. Daniels, not appearing and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board members present at the hearing being W. A. Gissberg (presiding) and Chris Smith and the Board having considered the sworn testimony, exhibits, records and files herein and having entered on the 20th day of December, 1974, its

1 proposed Findings of Fact, Conclusions of Law and Order, and the Board
2 having served said proposed Findings, Conclusions and Order upon all
3 parties herein by certified mail, return receipt requested and twenty
4 days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,
6 Conclusions and Order; and the Board being fully advised in the premises;
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
9 Findings of Fact, Conclusions of Law and Order, dated the 20th day of
10 December, 1974, and incorporated by this reference herein and attached
11 hereto as Exhibit A, are adopted and hereby entered as the Board's
12 Final Findings of Fact, Conclusions of Law and Order herein.

13 DONE at Lacey, Washington, this 17th day of January, 1975.

14 POLLUTION CONTROL HEARINGS BOARD

15
16 W. A. GISSBERG
17 W. A. GISSBERG, Member

18
19 Chris Smith
20 CHRIS SMITH, Member

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26 , FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER

CERTIFICATION OF MAILING

I, LaRene Barlin, certify that I deposited in the United States mail, copies of the foregoing document on the 17th day of January 1975, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Keith D. McGoffin
Burkey, Marsico, Roval, McGoffin
Turner and Mason
818 South Yakima Avenue
Tacoma, Washington 98405

Mr. Stephen G. Daniels
3025-112th S.W., Bldg. 412
Everett, Washington 98204

Puget Sound Air Pollution Control Agency
410 West Harrison Street
Seattle, Washington 98119


LARENE BARLIN

POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,
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AND ORDER

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This matter, the appeal of a \$250.00 civil penalty for an alleged unlawful outdoor fire, came before Board members, W. A. Gissberg (presiding) and Chris Smith at a formal hearing in Everett, Washington, on December 6, 1974.

Appellant did not appear; respondent appeared through its attorney, Keith D. McGoffin.

Having heard the testimony and considered the exhibits and being fully advised, the Board makes the following

EXHIBIT A

FINDINGS OF FACT

I.

Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3rd Ex. Sess., has filed with this Board a certified copy of its Regulation I containing respondent's regulations and amendments thereto.

II.

On June 4, 1974, in the vicinity of Lynnwood, Snohomish County, Washington, appellant instructed his employee to clean up and burn the scraps resulting from construction activities. Accordingly, the employee, Alva S. Henbree, started two open fires consisting of construction scraps, wire, cardboard and sawdust.

III.

Appellant had been issued a burning permit by Snohomish County Fire Protection District No. 1 wherein permission was granted to him to burn one acre of brush and stumps. That permit clearly states thereon that lumber burning is prohibited.

IV.

Section 9.02 of respondent's Regulation I makes it unlawful for any person to cause or allow an outdoor fire containing any substance other than natural vegetation.

V.

Any Conclusion of Law hereinafter recited which should be deemed a Finding of Fact is hereby adopted as such.

From which comes the following

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

CONCLUSIONS OF LAW

I.

Appellant was in violation of Section 9.02(b)(3) of respondent's Regulation I.

II.

The maximum penalty of \$250.00 is reasonable in view of the intentional nature of the violation.

III.

"Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From which comes this

ORDER

The appeal is denied and the penalty is affirmed.

DONE at Lacey, Washington, this 21 day of November, 1977.

POLLUTION CONTROL HEARINGS BOARD

W. A. GISSBERG, Member


CHRIS SMITH, Member

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER